



California Fair Political Practices Commission

May 2, 1988

Robertta M. Fesler
Assistant County Counsel
Public Services Division
Office of the County Counsel
648 Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: Your Request for Advice
Our File No. A-88-148

Dear Ms. Fesler:

You have written requesting advice on behalf of Supervisor Michael D. Antonovich who also serves as an appointed member of the Los Angeles Memorial Coliseum Commission.^{1/}

QUESTION

Must the amounts of separate campaign contributions received from MCA, Inc., and an officer or employee of the corporation be aggregated for purposes of determining whether a contribution of \$250 or more has been received by Mr. Antonovich for purposes of Government Code Section 84308?

CONCLUSION

The contributions from MCA, Inc., and its officer or employee need not be aggregated for purposes of Government Code Section 84308 since the employee's contribution was received more than 12 months prior to the pending decision, even if the officer or employee acted as the agent or intermediary for MCA, Inc., or was reimbursed by MCA, Inc.

FACTS

Supervisor Michael D. Antonovich is an elected official who serves as an appointed member of the Los Angeles Memorial Coliseum Commission (the "Coliseum Commission"). Within the past 12 months he has received campaign contributions totalling \$249 from MCA, Inc. ("MCA"), which is currently a party to a

^{1/} Subsequent to receipt of your letter, I also received a telephone communication from another member of the Los Angeles County Counsel's office, Donovan Main, on behalf of Supervisor Antonovich. Mr. Main, who is the attorney assigned to the Los Angeles Memorial Coliseum Commission, provided some additional, clarifying facts which are incorporated in this letter.

proceeding pending before the Coliseum Commission. Prior to the last 12 months (specifically in March 1987) he received a campaign contribution from Dan Slusser, who is a top management employee of MCA. Mr. Slusser's contribution was made as an individual.

A joint venture proposal has been made to the Coliseum Commission for the management of the coliseum. The proposal has been submitted by the joint venture of MCA and Spectcor Management, Inc. ("Spectcor"). To your knowledge, Mr. Slusser has not been involved with this management contract proposal. The decision regarding award of the management contract is set for the first week in May.

ANALYSIS

The Political Reform Act (the "Act")^{2/} contains a provision which requires appointed officials to disqualify themselves from participating in certain decisions when they have received campaign contributions of \$250 or more from a party to the proceeding, or the party's agent, within the preceding 12 months. (Section 84308.) The decisions which are covered by Section 84308 include decisions to award contracts, with certain exceptions. (Section 84308(a)(5).) From the facts provided, it appears that the contract in question is one which is covered by Section 84308.

From the facts provided, it also appears that MCA, Inc., having submitted a bid, is a party to the proceeding in that it is the "subject of" the contract under consideration by the Coliseum Commission board. (Section 84308 (a)(1.) Consequently, if MCA, either acting alone, or together with Spectcor or any of their respective agents, has contributed an aggregate amount of \$250 or more during the past 12 months, the provisions of Section 84308(c) would apply. That subdivision provides as follows:

^{2/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

(c) Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of two hundred fifty dollars (\$250) or more from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of two hundred fifty dollars (\$250) or more within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent; provided, however, that the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

If an officer receives a contribution which would otherwise require disqualification under this section, returns the contribution within 30 days from the time he or she knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, he or she shall be permitted to participate in the proceeding.

Therefore, the issue is whether the contributions of MCA or any of its agents or intermediaries totals \$250 or more during the past 12 months. The statute expressly requires that contributions be aggregated when made by a party or participant and the party's or participant's agent.

The Commission has adopted Regulation 18438.3 which specifies when someone is an agent of a party or participant under Section 84308. Regulation 18438.3 provides:

(a) For purposes of Government Code Section 84308, a person is the "agent" of a party to, or a participant in, a proceeding involving a license, permit or other entitlement for use only if he or she represents that person in connection with the proceeding involving the license, permit or other entitlement for use. If an individual acting as an

Roberta M. Fesler
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agent is also acting as an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are "agents."

(b) To determine whether a contribution of \$250 or more has been made by a person or his or her agent, contributions made by that person within the preceding 12 months shall be aggregated with those made by his or her agent within the preceding 12 months or the period of the agency relationship, whichever is shorter.

From the facts provided by your letter and Mr. Main's telephone call, it is clear that Mr. Slusser's campaign contribution in March 1987, over 13 months prior to this week's decision, would not be aggregated with MCA's contribution made last August. Therefore, even if Mr. Slusser was directed by MCA to make the contribution or was reimbursed by MCA for making the contribution, it would not be necessary to aggregate the contributions for purposes of Section 84308.

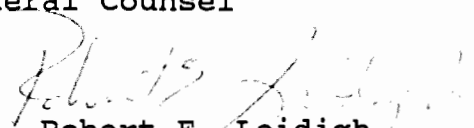
As mentioned previously, since MCA and Spectcor are joint venturers in the proposal for the management contract, their contributions would have to be aggregated. Mr. Main has checked into this issue and he indicates that Spectcor has not made any contributions in the past 12 months to Supervisor Antonovich.

As a result, since MCA together with its agents, joint venturers, employees, etc., has not made \$250 or more in contributions to Supervisor Antonovich within 12 months of the decision (May 5, 1988), he is not required to disqualify himself pursuant to Section 84308(c).

I trust that this letter adequately responds to your questions. If you have questions regarding its contents, please do not hesitate to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


by: Robert E. Leidigh
Counsel, Legal Division

REL:da



COUNTY OF LOS ANGELES

OFFICE OF THE COUNTY COUNSEL

648 HALL OF ADMINISTRATION

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

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DE WITT W. CLINTON, COUNTY COUNSEL

(213) 974-1866

April 15, 1988

Ms. Diane Griffiths
General Counsel
Fair Political Practice Commission
State of California
428 "J" Street, Suite 800
Sacramento, California 95804-0807

Re: Request for Informal Advice

Dear Ms. Griffiths:

This office represents the Board of Supervisors of Los Angeles County. Members of the Board serve on the Los Angeles Memorial Coliseum Commission ("Commission"). We have been asked by a member of the Board and Commission, Michael D. Antonovich, to request your advice on application of the provision of Government Code Section 84308 with regard to a matter pending before the Commission.

Specifically, we seek your advice on whether the amounts of separate campaign contributions received from a corporation and an officer or employee of the corporation must be aggregated for purposes of Section 84308. In a prior opinion dated February 25, 1983, your office advised Mr. David Bane, campaign treasurer for mayoral candidate and then San Diego Port Authority board member Maureen O'Connor, that such separate contributions are not aggregated unless the officer is reimbursed for the contribution by the company. We believe this is a correct construction of Section 84308.

Mr. Antonovich has received campaign contributions of \$249 from MCA, Inc., which is currently a party to a proceeding involving the possible award of a management contract by the Coliseum Commission. He has also received a personal campaign contribution of \$249 from Dan Slusser, who is a top management employee of MCA.

Ms. Diane Griffiths
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A joint venture proposal for the management contract has been submitted by MCA and Spectcor Management, Inc. Mr. Slusser has not, to our knowledge, been involved with this management contract proposal.


To date, there has been no decision by the Commission with regard to award of a management agreement. A draft of the agreement was first sent to Coliseum Commissioners on March 25 and released to the public on March 28, 1988. A public hearing with regard to the agreement was held on April 6, 1988, and a final decision on award of the agreement is contemplated during the first week of May, 1988.

It is our view, and we have so advised Mr. Antonovich, that the separate contributions from MCA and Mr. Slusser are not aggregated for purposes of Section 84308 and that he is legally able to participate in the Commission's decision on the management agreement.

We would appreciate your advice in this matter prior to the time set for the Commission's action during the first week in May.

Very truly yours,

DE WITT W. CLINTON
County Counsel

By 
ROBERTA M. FESLER
Assistant County Counsel
Public Services Division

RMF:jg
4:g

cc: Supervisor Michael D. Antonovich



California Fair Political Practices Commission

April 21, 1988

Roberta M. Fesler
Office of the County Counsel
County of Los Angeles
648 Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Re: 88-148

Dear Ms. Fesler:

Your letter requesting advice under the Political Reform Act was received on April 19, 1988 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert Leidigh an attorney in the Legal Division, directly at (916) 322-5901.

- We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within the time that you have requested. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. In the meantime, you may find the enclosed advice letter to Ralph Faust of the Coastal Commission helpful.

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

Diane M. Griffiths
General Counsel

DMG:plh
Enclosure